

**Zoning Board of Adjustment Public Hearing  
Richmond Veterans Hall**

July 14, 2021,

7:00 PM

**Members Present**

Alan Schmidt, Chairman  
Mark Beauregard  
Lloyd Condon  
Antoinette Cincotta  
Robert Gow  
Thomas Tague

**Members Absent**

Public: Shannon Hogan, Michelle Miner, Ronald Minor, Doug Bersaw. Kathy McWhirk.

Meeting called to order at 7:02 PM.

**1. Meeting called to order/roll call:  
(2020-2021 NH Planning Regulations)**

2020-2021 NH Land Use Planning Regulations were handed out to all the members. All the Richmond Regulations were handed to Robert Gow and Thomas Tague.

Roll call for all members, Short welcoming to the new members Robert Gow and Thomas Tague.

**Background information to better understand the contents of this meeting.** There is a discrepancy by a board member in the posting of the public hearing for this Special Exception. It was suggested that the notification to abutters and the posting was defective. Chairman Schmidt received an email on Monday July 12, 2021, regarding this concern. Land Use Assistant sent Chairman Schmidt Planning and Zoning specifically Zoning Board of Adjustment, Chapter 676 Administrative and Enforcement Procedure, Section 676:6. The Board member cited Chapter 674 Local Land Use Planning and Regulatory Powers under Zoning Board of Adjustment and Building Code Board of appeals section 674:33. Chairman Schmidt asked to have the town attorney contacted for clarification. Land Use Assistant contacted the Richmond Selectmen to request permission to contact the town attorney. The Selectmen agreed verbally over the phone to do so on Monday July 12, 2021. The town attorney was emailed what information was available the evening of July 12, 2021.

Discussion of the board was the importance of having due process and verify that the information sent out is done on a timely basis as required by the RSA. Further discussion and the question was asked to have an impartial person look the information over resulting in no cost to the town. The New Hampshire Municipal Association was contacted by the Land Use Assistant on July 14, 2021 at no cost to the town and it was agreed that the information was sent out in the timeframe according to RSA 676:6. Discussion continued that it was only fair to have the town attorney review all documents and claims.

Motion made by Cincotta to have the town attorney review the correctness of the Public Hearing Noticing. Seconded by Chairman Schmidt. Three in favor. Two opposed. Motion carries.

It was agreed that the Land Use Assistant would attend the Selectman's meeting on Monday July 19, 2021, and if approved by the Selectmen Mattson would deliver the information to the town attorney.

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## **2. Map 415 Lot 10 (Special Exception):**

Public Hearing call to order at 7:12 PM.

Chairman briefly went over the procedure that the hearing will follow.

Abutter notices were sent certified mail non return receipt on July 1, 2021.

Public Notice ran in the Keene Sentinel Legal Section on July 6, 2021.

Public posting in three locations (inside and outside the Town Hall and outside at the Veterans Hall) July 7, 2021.

The proposed application is for a Special Exception from Article 4: Residential District under 403 Uses Permitted by Special Exception more specifically 403.4 Home Occupations. Map 415 Lot 10 is owned by Ronald and Micelle Minor located at 580 Whipple Hill Road, Richmond, NH. Map 415 Lot 10 consists of 18.7 acres and has no visible neighbors. The Minor's daughter Shannon Hogan who resides at 580 Whipple Hill Road would like to open a proposed Home Occupation in one of their rooms in the home providing waxing services.

Chairman Schmidt addresses 1105 Special Exceptions under 1105.1 General Provisions that Apply to all Special Exceptions Uses.

**1105.1.1** The proposed use is designated as a special exception use. Yes it is a proposed use addressed under Article 4, 403 Permitted by Special Exception more specifically 403.4.

**1105.1.2** The proposed site is an appropriate location as determined, in part, by the surrounding land uses and the road network. Yes, the property is on 18.7 acres located on a Class 5 road with no noticeable abutters.

**1105.1.3** The proposed use will not adversely affect the use, enjoyment, or value of adjacent property. This use will not create and excessive noise, traffic, dust, glare or odors. The service is done with organic sticks and organic wax.

**1105.1.4** The ZBA may request an opinion or recommendations from the Planning Board. There is no need to have an opinion of the Planning Board since there will be no additions to the home or parking area. No additional water or septic use.

Chairman Schmidt asked the applicant Shannon Hogan to explain the proposed application for a Special Exception under 1105.3 Home Occupations.

Hogan explained that she is a NH State Licensed Esthetician and was looking to operate a small business under the NH State registered trade name of: Honey Pot Wax Suite in one of the rooms of the home at 580 Whipple Hill Road. Serving roughly 8-10 customers per week. Hogan would be the only person working from this location.

The location is screened and there are no abutting homes that can be seen. Traffic would be minimal with a limited number of customers. A small amount of product will be offered for sale only to her customers. Parking would not be an issue since there will be only one customer at a time.

Chairman Schmidt asked if anyone from the public wanted to speak for the application

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There was a letter submitted from abutter Ronald Raymond in favor of granting the Special Exception.

Michelle Minor owner of Map 415 Lot 10 said that she was for the proposed business and that this is how Hogan had planned to pay for her college tuition to nursing school in the Fall.

With no one else speaking for the applicant.

Chairman Schmidt asked if anyone from the public wanted to speak against the application.

McWhirk asked about customers traveling on Whipple Hill during winter season and spring mud season how if the applicants' customers couldn't make it up the hill? And would there be any repercussions to the town if the road is icy or muddy?

Hogan stated that customers would have to make that call. If the road was not passable for the vehicle it would be up them. The town would not be held responsible like any business that has appointments and due to road conditions customers may have to cancel. Hogan added that she drives a small car and has had no problem making it up Whipple Hill.

Chairman Schmidt asked if anyone from the board had any questions?

The question was asked if there would be any chemicals going into the septic system? Hogan explained that waxing is not like cosmetology, all she uses all-natural sticks and wax. There would be nothing going into the septic from the business. Bathroom use would be no different than if you had a friend visiting with only 8-10 customers per week.

Question was asked if there was a special license for a retail business that Hogan would apply for, and does she have that license?

Hogan explained that The State of NH Board of Cosmetology requires a Notice of Decision for occupancy then the board will come out for inspection to grant the license. The license is different from a retail business and goes under the term of shop license.

Hogan was asked if there would be noticeable increase in traffic flow. Hogan said that the road isn't used alot and to increase the traffic by 8-10 cars a week there would be no real noticeable increase.

Chairman Schmidt asked if there were any additional questions or statements from the public. No one answered. Chairman Schmidt asked if there were any additional questions of statements from the board. No one answered.

Motion made by Beauregard to close the public hearing. Seconded by Tague. All in favor. None opposed. Motion carries. Public Hearing closed at 7:35 PM.

Chairman Schmidt addressed the application under Section 1105 Special Exception 1105.3. This was explained in the applicant's original application.

**1105.3.1 The activity shall be conducted by the residents of the property.**

The applicant would be the only employee serving 8-10 customers per week.

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**1105.3.2 The activity may be conducted in the primary dwelling unit.** All work will be conducted in one room there will be a small display of items for customers to purchase. There are no neighbors, and no outside screening will be needed.

**1105.3.3 The activity may not change the primarily residential character.** This activity is contained within the primary residence and will not alter the present residential character.

**1105.3.4 There shall be parking adequate for all. Other than the primary residents in the home there will be only one customer at a time.** Parking will not be an issue.

**1105.3.5 Activity shall not generate traffic that is significantly greater than from residential use.** There will be roughly 8-10 additional vehicles on the road weekly.

**1105.3.6 Occupation may have one sign out front.** Presently there is a sign in front of the property, and it is within the 6 sq. feet size allowed in the ordinance.

**1105.3.7 In general, retail uses are not considered home occupations.** The proposed use would allow for minimal traffic and a small amount of retail products to be sold to customers only for their private use.

With no further discussion.

Motion made by Beauregard to accept the Special Exception for Map 45 Lot 10. Seconded by Tague.

Chairman Schmidt asked if there was any discussion.

Tague added that he thought this was a good idea for Hogan to start her own business.

All in favor. None opposed. Motion carries.

Notice of Decision will be created, sent to Chairman Schmidt to approve, sign and the decision will be sent to Hogan.

### **3. Minutes of September 9, 2020:**

**Page 4, Fifth section down.** Beginning with Concotta correct the name spelling to **Cincotta**. Same line change IWT to **ITW**. Sixth section down, fifth line add the word they to the beginning, should read: **they** will no longer feel safe to let their children play in the woods.

**Page 8, Ninth section down.** Change the IWT to **ITW**. Seventh section down change the words ast he to **as the**, the sentence should read: Hamilton mentioned as the last statement that not. Next line change the word her the access to **her to access**.

Page 9, First line change the word from he to **Chairman Schmidt**. Sixth section down, last sentence add **a**. Sentence should read: There was not **a** second. Eighth section down, third line change the word no to not. Sentence should read: with the proposed use but are **not** typical conditions for the area.

Page 10, under 2. There was debate that the actual Condition required the tower must be complete and all carriers in place within one year. Discussion continued that they would have to build the tower first and then get their carriers on board. Carriers usually don't buy at the higher first pricing they wait until the price drops then they commit. Land Use Assistant suggested that she may have made a mistake in the minutes and the actual

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Notice of Decision gave them one year after completion of the tower. The Notice of Decision will be checked to make sure it was written in the correct format.

Motion made by Condon to accept the minutes of September 9, 2020, as amended. Seconded by Beauregard. Discussion on waiting almost a full year after completion to correct the minutes. It was suggested to hold a meeting the following month just for the minutes. Chairman Schmidt explained that the ZBA is volunteer, and the minutes have always been corrected when the next application came before the board.

Three in favor. One opposed. One abstention. Motions carries.

### **4. Election of Officers:**

Chairman Schmidt asked for a nomination for Chairman. Motion made by Condon to nominate Alan Schmidt as Chairman. Seconded by Tague.

Chairman Schmidt asked for any other nominations from the floor. Motion made by Cincotta to nominate Tom Tague as Chairman. Tague expressed that this was his first meeting for the ZBA and wasn't feeling comfortable.

Cincotta continued that it would be nice to have a change. It would be healthy to have someone new with a fresh open mind.

Chairman Schmidt asked the question if you can be impartial, you can't prosecute or be a defender. Can you listen with an open mind and make a decision based on the information presented? Members must leave their bias at the door and treat applicants like customers. The ZBA is set up to be Quasi juridical and you cannot be a prosecutor or defense attorney.

Motion was not seconded.

Chairman Schmidt call for a vote. Three in favor. One opposed. Motion carries.

Chairman Schmidt asked for nominations for Vice Chairman. Motion made by Condon to nominate Mark Beauregard as Vice Chairman. Seconded by Alan Schmidt.

Chairman Schmidt asked for any other nominations from the floor. There were no other nominations from the floor.

Chairman Schmidt called for a vote. Three in favor. One opposed. Motion carries.

### **5. Other:**

There was no other.

Motion made by Beauregard to adjourn the meeting. Seconded by Condon. All in favor. None opposed. Motion carries.

Meeting adjourned at 8:15 PM.

Respectfully submitted,

Kandace Mattson